PAKISTAN

TRADE SUMMARY

In 1999, the U.S. trade deficit with Pakistan was $1.3 billion, an increase in the deficit of $349 million from the previous year. U.S. exports to Pakistan were $426 million in 1999, a decrease of $300 million (41.3 percent) from 1998. Pakistan was the United States' 67th largest export market in 1999. U.S. imports from Pakistan totaled $1.7 billion in 1999, an increase of $49 million (2.9 percent) from the level of imports in 1998. The stock of U.S. foreign direct investment in Pakistan in 1998 was $416 million, a decrease of 36.1 percent from 1997.

OVERVIEW

1999 continued to be a year of financial difficulty for Pakistan in the aftermath of 1998's Asian financial crisis and the pressure of nuclear-related economic sanctions that presented Pakistan with a severe foreign exchange and international payments crisis. A new financial assistance package with the IFI's and debt rescheduling through the Paris and London Clubs eased the pressure on foreign exchange, which has stabilized, and provided breathing space on international payments. Pakistan still awaits a $280 million IMF tranche originally due for disbursement in July 1999. The failure of the Sharif Government to implement IMF conditionality regarding fuel prices and continuing World Bank concerns over Independent Power Project (IPP) disputes have delayed the disbursement tranche. A change in government on October 12, 1999 due to a military coup has led to further delays while the new government develops and implements its policies on economic reform.

The new government has focused on economic reform as a top priority. Its stated goals include restoring investor confidence through stability and consistency in economic policies , including resolving the IPP disputes; reviving industry (textiles, agriculture, oil and gas), particularly to promote exports and information technology; and reducing imports, especially through increased agricultural production of wheat and edible oils. The oil and gas sector has been targeted for further development and increased foreign investment, through liberal incentives for exploration and privatization of several major government entities in this sector. The new government has also committed itself to large-scale tax reform and is engaging in an extensive accountability process to bring those who are corrupt, tax evaders, and fraudulent loan defaulters to justice.

IMPORT POLICIES

The Pakistani Government had committed itself to further liberalize its trade regime in compliance with the IMF/World Bank Policy framework paper of December 1998. Consistent with this commitment, on March 31, 1999, the maximum import tariff was reduced from 45 percent to 35 percent. The tariff for consumer goods was reduced to 35 percent, for intermediary goods from 35 percent to 25 percent, for chemicals and components from 25 percent to 15 percent, and for basic raw materials from 15 percent to 10 percent. In addition, customs duties on agricultural machinery were reduced to 10 percent in May 1999. The Pakistani Government has also committed conditionally to reduce further the maximum import tariff to 25-to-35 percent by June 2000. Minimum cash margins on imports, which had been imposed on all import letters of credit following Pakistan's nuclear tests, were progressively withdrawn, with the elimination of the cash margins in February 1999. All banned and restricted items except those prohibited on environmental, security, religious, or health grounds were allowed to be imported by exporters or by private traders.

Current Pakistani Government macroeconomic policy is focused increasingly on growth, controlling the fiscal deficit (mainly through increasing tax revenues), keeping inflation under control (inflation in 1999 was reduced to about six percent), and stabilizing foreign exchange reserves. Thus, the main thrust of trade policy is to encourage export-led growth and stimulate export oriented industries and to facilitate the export of value-added and nontraditional items from Pakistan. The new government has lowered the cost of local borrowing to spur economic activity.

Pakistan continued certain detrimental import restrictions, mostly questionable fees, including for soda ash (estimated U.S. export loss $25-50 million). For pharmaceutical packaging and raw materials, preferential tariff rates are usually granted only if the goods in question are not manufactured locally. For example, the drug Paracetamol is manufactured in Pakistan but the local product does not meet the user's specification. Nevertheless, the imported raw material attracts a 45 percent duty as well as 12.5 percent sales tax. For other pharmaceutical raw materials or products that are not manufactured locally, the duty is 10 percent and there is no sales tax. U.S. industries have expressed particular concern with the Government of Pakistan's discriminatory application of the internal sales tax between imported pharmaceutical raw materials (taxed at 15 percent) and the same domestically produced raw materials (exempt from taxation). Moreover, industry believes that Pakistan's imposition of price controls on pharmaceutical end products further impedes U.S. pharmaceutical manufacturers from maintaining profitability. Industry has estimated that removals of these barriers would result in increased sales of U.S. pharmaceutical companies' products of $50-100 million.

In 1997, Pakistan cancelled its contracts with the preshipment inspection firms SGS and Coteena, and reintroduced the "import trade price" system, whereby the value of all imports is now determined by Pakistani customs. However, in numerous disputes importers assert the import trade prices are set arbitrarily by customs. Legislation to implement the WTO Customs Valuation Agreement was enacted in 1999, taking effect January 1, 2000.

The Pakistani tariff regime is generally characterized by complexity, broad bureaucratic discretionary powers, and very limited transparency. Administrative decisions frequently grant exemptions and concessions from general rules under Special Regulatory Orders (SRO) that amount to temporary duty suspension decrees. As a result, different rates are applied to the same product and average applied rates are sometimes lower than statutory duties. The IFI reform programs address these problems, and the U.S. Embassy believes simplifying the tariff regime will benefit U.S. exporters. The new government has also spoken out generally against the prior government's abuse of SRO authority. Other U.S. exports that continue to face market access restrictions include instant print film and instant print cameras. In addition to the range of border and internal market restrictive barriers in Pakistan on the industry's products, U.S. film and entertainment industry representatives have estimated an annual loss of approximately $1 million due to the entertainment taxes.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Pakistan's barriers to trade often are expressed as extra fees. Less frequently, usually in the context of protecting some domestically manufactured product, the U.S. exporter will encounter difficulty with "Quality" standards. Testing facilities for agricultural goods are inadequate, and standards are inconsistently applied, resulting in occasional discrimination against U.S. farm products.

GOVERNMENT PROCUREMENT

The Pakistani Government, along with its numerous state-run corporations, is Pakistan's largest importer. Work performed for government agencies, including purchase of imported equipment and services, often is awarded through tenders that are publicly announced or issued to registered suppliers. The Pakistani Government nominally subscribes to principles of international competitive bidding, but political influence on procurement decisions is common, and these decisions are not always made on the basis of price and technical quality alone. Charges of official corruption and long delays in bureaucratic decision-making have been common in the past. The sanctity of contracts has also has been an issue for some companies dealing with the past government. The new military government has placed a high priority on good governance and rooting out corruption, and intends to establish a national independent board or institution for public procurement. Industry estimates that if these barriers were eliminated, U.S. exports would increase by $10-25 million.

EXPORT SUBSIDIES

Pakistan actively promotes the export of Pakistani goods with measures such as government financing and tariff concessions on imported inputs, and income and sales tax concessions. Pakistan has established export processing zones with benefits including tax holidays, indefinite carry forward of losses, exemption of imports from taxes and duties, and exemption from labor laws and various other regulatory regimes. Incentives for exports, including export financing, appear to be available to both foreign and domestic investors.

In 1999, the Pakistani Government provided two explicit export subsidies for agricultural products. There was an export subsidy for sugar of 4,500 rupees per ton (about $90). Total 1998/99 sugar exports were 505,000 tons for a total export subsidy of about $45.5 million. The Government also subsidized 25 percent of freight costs for exports of fruits and vegetables; the estimated total government subsidy was less than $1 million. In 2000, the Government is considering offering export subsidies again on sugar (though probably a smaller quantity) and freight for fruit and vegetables (particularly potatoes).

INTELLECTUAL PROPERTY RIGHTS PROTECTION

The laws in Pakistan generally provide for protection of intellectual property rights. Pakistan is party to the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and is still in the process of revising its laws to become TRIPS compliant. Pakistan is a member of the Berne Convention for the Protection of Literary and Artistic works, the Universal Copyright Convention, and the World Intellectual Property Organization, but is not a member of the Paris Convention for the Protection of Industrial Property.

Pakistan has been on the "Special 301" Watch List since 1989 due to widespread piracy, especially of copyrighted materials, and failure to implement its patent mailbox obligations under the TRIPS Agreement. Upper level government officials are aware of the negative impact of intellectual property rights violations on Pakistan's investment climate. The Government has undertaken the task of rewriting legislation in the areas of copyrights, patents, and trademarks and has taken steps to strengthen enforcement, including raids on pirated-video rental shops and computer software outlets. However, the fines applied to violations have been too small to provide a credible deterrent. Other current U.S. concerns include lack of patent protection of pharmaceutical products and trademark infringement. Recently, Government officials have spoken out on the need to provide better protection for intellectual property rights in Pakistan, due to Pakistan's desire to grow and protect its nascent information technology industry. The new government's economic reform plan, outlined in a speech by Chief Executive Musharraf on December 15, 1999, specifically mentioned that laws relating to trademarks and intellectual property rights will be reviewed and improved.

Patents

Recently, Pakistani law protected only process patents for a duration of 16 years, although the government is committed to eventually offering product patents in accordance with its WTO obligations. U.S. industry has complained that the right of the patentee is not adequately protected by law, permitting infringers to continue freely manufacturing illegal products. In addition, recently only the patent-owner, not licensees, could file a suit against an infringer. Further, backlogged cases in the courts result in delays. As a result, injunction orders against the infringer cannot be issued expeditiously. U.S. industry reports that piracy continues to inflict losses on the research-based pharmaceutical industry at an estimated cost of $15-20 million per year.

Trademarks

There have been occasional instances of trademark infringement, involving a range of products such as toys, playing cards, and industrial machinery. In August 1994, the Pakistani Government issued new drug labeling rules requiring the generic names of substances to be printed with at least equal prominence as that of the brand name. This rule serves to dilute in the minds of consumers existing difference in quality, efficacy, and safety, and incorrectly implies total interchangeability and equality among different products. Industry has expressed concern about Pakistan's drug labeling rules, noting that these laws appear to place Pakistan in violation of the WTO TRIPS rules protecting trademarks. U.S. industry estimates a loss of $5-10 million in U.S. exports for patent and trademark violations.

Copyrights

Violations of intellectual property rights in Pakistan are most common in the area of copyrights, where the piracy levels are exceptionally high. The market for imported computer software has remained nearly 95 percent pirated (multinational firms and other international agencies are the only users of genuine software), while U.S. industry has estimated that the piracy rate for videos has declined to around 80 percent. The new government, however, has recognized the need for better protection of software in order to establish a Pakistani information technology industry. It has called for regulations to protect intellectual property, promote industry standards, and encourage electronic commerce.

As a result of strengthened law enforcement some video outlets are taking steps to offer legitimate products. U.S. industry has reported some improvement in Pakistan's anti-piracy program. Recent raids were conducted on about 50 computer software outlets in Karachi at the behest of the Business Software Alliance. There have also been recent reports of law enforcement agencies sealing numerous video cassette shops in Karachi for a number of days, with the dealers seeking a three-month reprieve to dispose of their existing stocks. Special police anti-piracy task forces have also been established in the different parts of the country. Nevertheless, U.S. industry continues to express concern over the high rate of video piracy in the form of back-to-back copying of videos in video outlets. Furthermore, the entertainment industry reports that motion picture infringement cases move slowly through the court system due to the backlogged court system. Piracy of copyrighted textile designs and reprint piracy of books (especially computer books, business titles, and medical texts) continue to be significant problems. Exports of counterfeit products made in Pakistan have been reported.

Despite improvements in enforcement, the courts have been lax regarding successful prosecution of copyright infringement. According to industry representatives, penalties for infringement imposed by the courts are not strict enough to provide an effective deterrent to piracy. For example, typical penalties imposed on pirate video outlets have amounted to fines of only $16 and no imprisonment. Further, the courts remain extremely backlogged because of inefficient procedures. In the area of copyright infringement alone, in Pakistan, the International Intellectual Property Alliance estimated that piracy of films, sound recordings, computer programs, and books resulted in trade losses of $80 million in 1998.

SERVICES BARRIERS

The new investment policy announced in November 1997 promised liberalization. The policy opened up new sectors for investment, including services. In general, investment in services is permitted where the amount of foreign equity investment is at least $500,000. Foreign investors are allowed to hold up to 100 percent equity at the outset subject to the condition that repatriation of profits will be restricted to a maximum of 60 percent of total equity or profits. It is also mandatory that 40 percent of the equity be held by Pakistani investors within two years of the initial investment. Foreign investments not meeting these requirements are still permitted, but are not guaranteed repatriation of profits.

Services covered by this policy include transportation, audio-visual services, sporting services, social sector services, environment, and agricultural services. Information technology services, including software development, and tourism, however, have been defined as “industries” by the investment policy. This means that foreign investors are allowed participation on the basis of 100 percent foreign equity without any permission from the government and are neither subject to a minimum investment requirement nor are required to have 40 percent Pakistani equity within two years.

There is a specific list of deregulated telecommunications services, including electronic information services, card pay telephone services, paging services and voice mail services. The investment policy permits 100 percent foreign equity on a repatriatible basis as long as foreign equity investment is at least $500,000. Basic telephony remains the monopoly of the majority state-owned Pakistan Telecommunications Corporation until 2005, but competition among service providers is now allowed in cellular telephony. In WTO negotiations on basic telecommunications, Pakistan made commitments on basic telecommunications services, with phase-in on some obligations. For example, Pakistan has agreed to provide cross border market access for voice services as of January 1, 2005, and will allow the cross-border provision of packet-switched data and Internet services on competitive networks by 2004. As part of the agreement, Pakistan also adopted certain pro-competitive regulatory principles.

Pakistan improved its financial services commitments in the WTO financial service agreement in December 1997. These commitments promise some liberalization by granting the right of establishment for banks, as well as grandfathering acquired rights of foreign banks and foreign securities firms. Foreign banks generally have been restricted to a few branches, faced higher withholding taxes than domestic banks, and experienced restrictions on doing business with state-owned corporations. Foreign brokers may join one of the country’s three stock exchanges only as part of a joint venture with a Pakistani firm.

New foreign entrants to the general insurance market virtually have been barred. Foreign firms wishing to compete in the life insurance market, while not barred, have also faced severe obstacles. Those few foreign insurance companies operating in Pakistan have faced various tax problems, long delays in remitting profits, and problems associated with operating within the insurance cartel. The new government is looking at opening up the insurance market as one of its reforms of the financial sector.

Service barriers in the form of admission price controls by provincial governments remain a matter of concern for U.S. film and entertainment industries. Admission price controls coupled with high entertainment taxes have made it very difficult for theaters to be profitable; theater owners lack the authority to set admission prices according to market conditions. U.S. industry sources report that provincial governments have made no attempts to alleviate these controls in 1999.

If all service barriers were eliminated, U.S. industry representatives estimate an increase in U.S. exports of $25-100 million.

Legal Services

A person cannot provide legal consultancy services on foreign and international law without being licensed in the practice of Pakistani law. Also, unless they are licensed to practice in Pakistan, foreign lawyers may not form partnerships with local lawyers.

INVESTMENT BARRIERS

As mentioned above, the new investment policy of November 1997 promised liberalization of the climate for foreign direct investment. Foreign investors are allowed to invest in the manufacturing and industrial sector on the basis of 100 percent foreign equity without government permission. (Several sectors are exempt for security or religious reasons.) The investment policy promises full repatriation of capital, capital gains, dividends, and profits with the approval of the State Bank of Pakistan; no restrictions on transfer of technology; expropriations only upon adequate compensation; and no changes in benefits and incentives to the disadvantage of investors.

Investors often face unstable policy conditions, however, particularly on large infrastructure projects. For example, the previous government's consistent harassment of and refusal to recognize its contractual commitments to Independent Power Producers has severely damaged Pakistan's climate for foreign investment. In the past, changes in governments have led to significant alterations in the conditions and assumptions under which an investment agreement had been signed or was being pursued. Also, security concerns can be disruptive factors influencing company choice of location of facilities and areas of operation.

Trade-Related Investment Measures

Pakistan notified measures inconsistent with its obligations under the WTO Agreement on Trade-Related Investment Measures (TRIMS). These measures are local content requirements in the automobile, electronics, electrical products, and engineering industries under Pakistan's "deletion program." The program is ostensibly not compulsory, but at least one telecommunications equipment producer has reported that telecommunications licensees must adhere to the import deletion program. Investors who "voluntarily" undertake to increase the local content of their output enjoy lower tariffs on imported inputs but are subject to fines for non-compliance with an agreed-upon import deletion schedule. In the auto sector, U.S. industry reports that the Pakistani Government expects new motor vehicle assembly plants to achieve a local content level of at least 40 percent within five years of starting production. U.S. industry reports further that 40 percent local content level is a firm requirement seven years after starting production of motor vehicles in Pakistan. Proper notification allowed developing-country WTO members to maintain such measures for a five-year transition period, ending January 1, 2000. In December 1999, Pakistan submitted a request to the WTO for a lengthy, seven-year extension to its transition period. The United States is working with other WTO members to effect a case-by-case review of all such TRIMS extension requests, with an effort to ensure that the individual needs of those countries that have made requests can be addressed. This process does not limit a Member's rights under the WTO agreement.

ANTI-COMPETITIVE PRACTICES

The U.S. Embassy has seen no evidence of any lack of government action against anti-competitive practices of state-owned and private firms that restrict the sale of U.S. products and services.

ELECTRONIC COMMERCE

At early 2000, the U.S. Embassy has received no complaints from U.S. industry regarding local restrictions affecting electronic commerce. The new miliary government's economic reform plan has highlighted the development of electronic commerce in Pakistan, citing information technology as one of its four major priorities for economic reform. The Government has already taken steps to reduce the rates charged by the Pakistan Telecommunications Authority for leased lines. The high cost of the data communication infrastructure has been cited as one barrier to electronic commerce development in Pakistan.

OTHER BARRIERS

Lack of transparency is a recurrent and substantial problem in many areas, including government procurement and customs valuation. Two Pakistani Federal Government bodies take an interest in this problem, in addition to various government departments that might investigate allegations of corruption under their purview. The new military government has targeted corruption as one of its highest priorities, creating a National Accountability Bureau (NAB) and promulgating a strict accountability ordinance aimed at rooting out corruption committed by prior government officials and politicians, tax evaders and fraudulent loan defaulters. A number of prominent persons have been arrested, with more arrests promised in the future. Whether this accountability campaign will restore funds, deter corruption, and lead to a more transparent economy has yet to be seen.

Regulations governing product registration also act as a barrier to U.S. goods. U.S. industry has expressed concerns in particular about the Pakistani Government's unilateral adoption of a discriminatory policy against transnational pharmaceutical companies that insist that these companies can only register products for sale in the country of incorporation of the respective company. Local companies, however, are not held to such a standard, as they can register products from any source. This results in a policy that discriminates against the research-based companies operating in Pakistan. In addition, the time required for the registration process for many multinational pharmaceutical companies in Pakistan is often two years, if not longer.